

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

GILBERT POLANCO, JR.,

Plaintiff,

-against-

LOCAL 32 BJ AND MICHAEL FISHMAN,
PRESIDENT OF LOCAL 32BJ,

Defendants.

ECF Case
07 Civ 7957 (GBD)

DEFENDANTS' NOTICE
OF MOTION AND
MOTION TO DISMISS
PURSUANT TO F.R.Civ.P.
12(b)(6)

-----X

To Plaintiff Gilbert Polanco, Jr. and his attorney of record:

PLEASE TAKE NOTICE that Defendants Service Employees International Union, Local 32BJ ("Local 32BJ") and Michael Fishman, President of Local 32BJ hereby move to dismiss the Complaint in its entirety pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

This motion is made on the grounds that Plaintiff Gilbert Polanco, Jr. has failed to state a claim upon which relief can be granted since (1) his claims are time-barred by the applicable six-month statute of limitations; and (2) union officers may not be sued individually for actions taken in their capacity as officers. This motion is based on this Notice of Motion, the Memorandum of Law and Affidavit of Andrew L. Strom filed herewith, the pleadings on file in this case, and on such further evidence and argument as the Court shall consider.

Defendants Local 32BJ and Fishman seek an Order from this Court dismissing the Complaint in its entirety, with prejudice.

Dated: September 17, 2007

OFFICE OF THE GENERAL COUNSEL
SEIU LOCAL 32BJ

By: Andrew L. Strom

Andrew L. Strom (AS 2695)
Associate General Counsel
SEIU Local 32BJ
101 Ave. of the Americas, 19th flr.
New York, New York 10013
Tel: (212) 388-3025
Fax: (212) 388-2062

Attorneys for Defendants
Local 32BJ and Fishman